

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB-LFG

RIO CHAMA STREAM SYSTEM

Section 7, Rutheron & Plaza Blanca

NOTICE AND ORDER TO SHOW CAUSE

To: United States of America
David W. Gehlert, Esq.
United States Department of Justice
Environmental and Natural Resources Section
999 18th Street, South Terrace, Suite 370
Denver, CO 80202

Priority Dates:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date for any of the pre-1907 community or private ditches in the Rutheron & Plaza Blanca Subsection of Section 7 ("Rutheron & Plaza Blanca Subsection") as described below.

DITCH

PRIORITY DATE

Plaza Blanca Ditch
Trujillo Ditch

1861
1877

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other persons file objections. The priority dates for ditches listed above

will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described in an individual subfile order filed with the Court.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the ditch-wide priority dates for lands in the Rutheron & Plaza Blanca Subsection that are irrigated under final licenses issued by the Office of the State Engineer, or irrigated under an approved permit for the transfer of water rights, as described below:

<u>DITCH</u>	<u>OSE LICENSE</u>	<u>PRIORITY DATE</u>
<u>Willow Creek Mesa Ditch</u>	No. 1545 & 1699	December 4, 1922

The above priority date of December 4, 1922 will apply to all lands irrigated by the Willow Creek Mesa Ditch under OSE License No. 1545 & 1699 with the exception of the lands in the subdivisions described below.

<u>Willow Creek Mesa Ditch</u>	No. 1545 & 1699	February 2, 1926
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<u>Subfile No.</u>	<u>Subdivision</u>	<u>Acres</u>
CHRU-002-0001	Sec. 34, T2S, R2E	
	NE1/4 SE1/4	10.20
	SE1/4 SE1/4	1.05
	SW1/4 SE1/4	0.67
	Sec. 35, T2S, R2E	
	NW1/4 NW1/4	3.32
	NE1/4 NW1/4	6.14
	NW1/4 NE1/4	8.62
	SW1/4 NE1/4	22.54
	SE1/4 NE 1/4	0.03
	NW1/4 SE1/4	6.41
	SW1/4 SW1/4	15.73
	SE1/4 SW1/4	21.26
	Sec. 2, T3S, R2E	
	NW1/4 NW1/4	7.49

CHRU-001-0003	Sec. 36, T2S, R2E SW1/4 NW1/4	0.70
CHRU-003-0006	Sec. 1, T3S, R2E SE1/4 NW1/4	13.99
CHRU-004-0042	Sec. 11, T3S, R2E SW1/4 NE1/4	0.86
CHRU-004-0043	Sec. 11, T3S, R2E SW1/4 NE1/4 SE1/4 NW1/4	1.35 1.12

A copy of a map prepared by the Office of the State Engineer showing the location of the lands described above, to which the priority of February 2, 1926 will apply, is available for inspection at the Office of the State Engineer in Santa Fe. Copies of this map are also included with the Court's Notice/Order mailed to defendants in Subfiles CHRU-0020001, 001-0003, 003-0006, 004-0042 and 004-0043.

TRANSFERRED WATER RIGHTS

<u>Move-to Location</u>	OSE Permit	PRIORITY DATE
CHRU-004-0050A (Unser LLC)	No. 1545 & 1699 into 4888 & 4889	December 4, 1922

Irrigation Water Requirements:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use under pre-1907 ditches located in the Rutheron & Plaza Blanca Subsection, as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.08 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.70 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.50 acre-feet per acre per annum.

The ditches in the Rutheron & Plaza Blanca Subsection to which the above amounts apply are all of the ditches identified above with the exception of the Willow Creek Mesa Ditch.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Rutheron & Plaza Blanca Subsection that are irrigated under final licenses issued by the Office of the State Engineer, or irrigated under an approved permit for the transfer of water rights, as described below:

Willow Creek Mesa Ditch:

- a. The weighted consumptive irrigation requirement (CIR) is 1.08 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

TRANSFERRED WATER RIGHTS

<u>Move-to Location</u>	OSE Permit	AMOUNT OF WATER
CHRU-004-0050A	No. 1545 & 1699 into 4888 & 4889	23.67 acre-feet per annum consumptive use 40.35 acre-feet per annum diversion amount

The term "Consumptive Irrigation Requirement" ("CIR") refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term "Farm Delivery Requirement" ("FDR") refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the

consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons, you will be notified of the objections and may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes the elements of the water rights of your water rights and the rights of other surface water irrigation users in the Rutheron & Plaza Blanca Subsection as described above. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Rutheron & Plaza Blanca Subsection, and subsequent *inter se* proceedings in the Rutheron & Plaza Blanca Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Rutheron & Plaza Blanca Subsection as stated above, you must file the form entitled Objection and Response to Notice and Order to Show Cause with the Court, in person or by mail **FOR RECEIPT NO LATER THAN JUNE 1, 2012.**

United States District Court Clerk

333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Court will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights in the Rutherford & Plaza Blanca Subsection. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 telephone
(505) 867-2299 facsimile

or, John W. Utton
Attorney for Asociación de Acéquias
Norteñas de Rio Arriba
Sheehan & Sheehan, P.A.
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile



BRUCE D. BLACK
CHIEF UNITED STATES DISTRICT JUDGE

Approved:



LORENZO F. GARCIA
UNITED STATES MAGISTRATE JUDGE